

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office June 29, 2006, the Examiner objected to claims 9-17 because of informalities. The Examiner rejected claims 1-8 and 12-17 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner also rejected claims 1-17 under 35 U.S.C. § 101 as being directed to non-statutory subject matter; and rejected claims 1-17 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,944,596 to Gray et al. (hereinafter "Gray").

Claim Objections:

The informalities identified by the Examiner have been corrected. Withdrawal of the objections is requested.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph:

In the Office Action, the Examiner noted antecedent basis problems in claims 1, 2, 7, and 12. Applicant has amended the claims to correct the antecedent basis problems identified by the Examiner. Because of the amendments, Applicant respectfully submits that all antecedent basis problems have been overcome. Applicant therefore respectfully requests removal of the rejections under 35 U.S.C. § 112, second paragraph.

Claims Rejections under 35 U.S.C. § 101:

In the Office Action, the Examiner rejected all claims under 35 U.S.C. § 101 as being directed to non-statutory subject matter, specifically as being directed merely to an abstract idea with no concrete result. Applicant respectfully submits that the claims as amended are directed at statutory subject matter and provide for concrete results with specific and substantial practical applications. Applicant respectfully submits that the below-identified claims provide at least the following specifically-identified utilities:

Claim 1: Independent claim 1 has specific utilities providing concrete results of at least 1) assisting instructors in preparing lesson plans conforming with measurable standards of learning (such as those standards imposed by the federal “No Child Left Behind” statute), 2) evaluating the success of instructors in improving their teaching according to the standards, 3) evaluating the success of instructor training in helping instructors conform instruction with the standards, 4) evaluating the success of instructor training in helping learners learn information in accordance with the standards. 5) Each of these further assists by providing meaningful information which may be used to modify instructor training to address shortcomings exposed by the system claimed in claim 1 to substantially improve teaching and learning, as is disclosed in the application at least at page 2, last 2 lines and at page 6, first full paragraph, lines 4-11 and next paragraph.

Claim 9: Independent claim 9 has specific utilities providing concrete results of at least 1) assisting instructors in organizing instructional plans, 2) evaluating the success of instructors in including learned information in their instruction, 3) evaluating the success of instructor training

in helping learners learn more information, and 4) providing meaningful information which may be used to modify instructor training as discussed above.

Claim 12: Independent claim 12 has specific utilities providing concrete results of at least assisting professionals in organizing lesson plans, 2) evaluating the success of professionals in improving teaching according to the standards, 3) evaluating the success of professional training in helping professionals conform instruction with the standards, 4) evaluating the success of professional training in helping learners learn information in accordance with the standards, and 5) providing meaningful information which may be used to modify the professional training as discussed above.

Claim 18: Independent claim 18 has specific utilities providing concrete results of at least 1) assisting instructors in preparing lesson plans conforming with measurable standards of learning (such as those standards imposed by the federal "No Child Left Behind" statute), 2) evaluating the success of instructors in improving their teaching according to the standards, 3) evaluating the success of instructor training in helping instructors conform instruction with the standards, 4) evaluating the success of instructor training in helping learners learn information in accordance with the standards, and 5) providing meaningful information which may be used to modify instructor training as discussed above.

The dependent claims further elaborate on the above-identified independent claims, and therefore also have similar specific utility providing concrete results. As is well known in the teaching art, lesson plans are detailed descriptions of the course of instruction for individual lessons, and are tangible, helpful objects which may be used by teachers and instructors in

teaching lessons. Because each of the claims includes at least producing a lesson plan, the claims define patentable subject matter under 35 U.S.C. § 101, and the rejections under this section should be removed.

The United States Patent and Trademark Office and the United States Court of Appeals for the Federal Circuit treat the utility requirement 35 U.S.C. § 101 as a relative low bar to patentability. For example, the MPEP advises Examiners to impose a rejection based on lack of utility only if the claimed invention is “not useful for any particular purpose.” MPEP § 2107. The MPEP requires only “one single credible assertion of specific and substantial utility for each claimed invention to satisfy utility requirement.” Id.

Applicant has asserted multiple credible specific and substantial uses/utilities for each of the claims contained in the application. Applicant respectfully submits that each claimed utility satisfies the utility requirement identified by the Examiner and is supported by the application as filed. Applicant therefore respectfully requests removal of the rejections under 35 U.S.C. § 101.

Claims Rejections Under 35 U.S.C. § 102(e)

In the Office Action, the Examiner rejected all claims under 35 U.S.C. § 102(e) as being anticipated by Gray. M.P.E.P. 2131 sets forth the standard for a rejection of a claim as anticipated under 35 U.S.C. § 102. “To anticipate a claim, the reference must teach every element of the claim.” M.P.E.P. 2131 states further,

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . . “The identical invention must be shown in as

complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant respectfully submits that the reference(s) cited by the Examiner fail to teach every element of the claim set as provided herein for at least the following reasons.

Gray discloses and teaches a unilevel system of training individuals. (Abstract, Col 2 lines 3-20) That is, the teaching system of Gray is directed not at teaching teachers and helping the teachers teach better, but is directed merely at training employees and evaluating the employees’ learning. (Abstract, Col 2 lines 3-20) The differences between Gray and Applicant’s claims may be understood by comparing Figure 9D of Gray with Applicant’s Figure. As may be appreciated from Gray’s Figure 9D, teaching and evaluation takes place on one level: the student does something, that something is evaluated, the student receives feedback from the team, and the student reenters the simulation for additional learning to remediate errors. The process may then be repeated.

In contrast, Applicant’s methods and systems are multi-level, with training and evaluation extending between those levels instead of staying on one level. Training is provided (at 10) to professionals/teachers. Then, lesson plan assistance is provided to the professionals/teachers (at 18) based on the training information and established standards included in the training. At that point, the teacher then uses the trained information in teaching the students (at 20) (a second level of teaching). Then the students are assessed/tested (at 22) and the assessment data is reviewed (at 16) in two parts: 1) similar to Gray, the students’ performance may be assessed (at 16 part A, referring to Teacher review of assessment), and 2) different from Gray, the teacher’s performance is assessed (at 16 part A referring to

administrative review of the assessment, and at 16 part B referring to the teacher self-assessment). Then, the teacher's training may be evaluated and additional training provided to the teacher or the training may be modified for other teachers, returning to the starting point (at 10). Applicant's specification discloses this information at pages 9-12.

Essentially, the teachings of Gray shown in Figure 9D are a mere subset of the teachings shown in Applicant's Figure, establishing a smaller loop that passes through 16-20-22 in Applicant's Figure, and even then only teaches some of the information disclosed in those sections of Applicant's flowchart.

Each of Applicant's independent claims (1, 9, 12, and 18 requires this multi-level teaching and assessment. Reference is made to claim 1 which requires: "providing training to an instructor," "allowing said instructor to teach said individuals," and "assessing success of said training in improving teaching by said instructor, comprising: testing said individuals." Similar multi-level limitations may be found in the other independent claims. These limitations are not taught by Gray.

By way of example, referring to the rejection of claim 12, the Examiner proposed that Gray teaches both training professionals and lessons for students. However, Gray does not teach this multi-level system as discussed above. The user identified by the Examiner from Figure 5 element 502 is identical to the student identified by the Examiner referring to Figure 9A, as can be seen from the Examiner's own rejection, which relies on Figure 5 element 506 ("user") to show the testing of the student's learning (not the professional's implementation of the training).

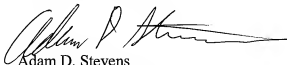
Therefore, Applicant respectfully submits that the reference cited by the Examiner does not anticipate the claim set provided herein because the reference fails to teach every element of any claim, as is required for a rejection under 35 U.S.C. § 102. Applicant therefore respectfully requests removal of the rejections under 35 U.S.C. § 102(e).

CONCLUSION

Applicant submits the claims are now in condition for allowance and respectfully requests the same. If any impediments to this application remain after consideration of the foregoing amendments and remarks, the Examiners is invited to initiate a telephone conference with the undersigned attorney of record.

DATED this 29 day of September, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Adam D. Stevens', with a long horizontal flourish extending to the right.

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